

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DARIUS ROWSER, an individual,
and AMITA GUPTA, an individual,
on behalf of themselves and all others
similarly situated,

Plaintiff,

vs.

TRUNK CLUB, INC., a Delaware
corporation; and DOES 1 through 10,
inclusive,

Defendants.

Case No.: CV 17-05064 DSF (RAOx)

**ORDER GRANTING PLAINTIFFS'
UNOPPOSED MOTION FOR FINAL
APPROVAL OF CLASS ACTION
SETTLEMENT AND JUDGMENT**

1 This matter came before the Court on the unopposed motion by Plaintiffs
2 Darius Rowser and Amita Gupta, on behalf of themselves and the similarly situated
3 employees of Defendant Trunk Club, Inc., for an Order granting final approval of
4 the parties' Stipulation of Settlement ("Settlement Agreement"). The Motion was
5 heard concurrently with Plaintiffs' earlier filed motion for an order approving the
6 requested attorneys' fees and costs to Plaintiffs' counsel and awarding the requested
7 class representative enhancements and Service Awards to Plaintiffs.

8 The Court preliminarily approved the Parties' Settlement and their proposed
9 resolution of Plaintiffs' class, collective and representative claims on behalf of the
10 California Class Members, Illinois Class Members and FLSA Collective Members
11 ("the Settlement Class Members") on August 24, 2018.

12 In accordance with the order granting preliminary approval, and in
13 compliance with due process, the Settlement Administrator sent the Class Notice to
14 each California Class Member, Illinois Class Member, and FLSA Collective
15 Member by first-class mail. The Class Notice informed California Class Members,
16 Illinois Class Members, and FLSA Collective Members of the terms of the
17 Settlement, the right to participate in the Settlement, the right to object to the
18 Settlement, the right to request exclusion and pursue their own remedies, and the
19 right to appear in person or by counsel at the final approval hearing regarding final
20 approval of the Settlement.

21 The motion for final approval seeks final approval of the Settlement and entry
22 of judgment that will bind each California Settlement Class Member, Illinois
23 Settlement Class Member, and FLSA Settlement Collective Member, and will
24 operate as a full release and discharge of California Settlement Class Members'
25 Released Claims, Illinois Settlement Class Members' Released Claims and FLSA
26 Settlement Collective Members' Released Claims (as defined in the Settlement
27 Agreement).

1 Having received and considered Plaintiffs' motion for preliminary approval of
2 the Settlement, Plaintiffs' motion for final approval of the Settlement, all objections
3 to the Settlement, all opt-outs from the Settlement, Plaintiffs' motion for attorneys'
4 fees, costs and service awards, the file in this case, and the evidence and argument
5 received by the Court before entering the Preliminary Approval Order and before
6 and at the final approval hearing, THE COURT ORDERS, ADJUDGES, AND
7 DECREES THAT:

8 1. Initial-capitalized terms in this order shall have the same meaning as
9 assigned to them in the Settlement Agreement.

10 2. The Settlement Administrator has fulfilled its initial notice and
11 reporting duties under the Settlement Agreement.

12 3. The Class Notice: (i) was the best practicable notice under the facts and
13 circumstances of this case; (ii) was reasonably calculated to apprise California Class
14 Members, Illinois Class Members, and FLSA Collective Members of the pendency
15 of the Action, their right to participate in the Settlement, their right to exclude
16 themselves from the Settlement, and their right to object to, and/or appear at the
17 Final Approval Hearing for, the Settlement; and (iii) constituted due, adequate, and
18 sufficient notice of a class/collective settlement under Federal Rule of Civil
19 Procedure 23, 29 U.S.C. section 201, *et seq.*, due process, and any other applicable
20 rules or law. Only one individual asked to exclude themselves from the Settlement,
21 and no one objected to the Settlement.

22 4. The notice of settlement served by Plaintiffs on the California Labor
23 and Workforce Development Agency ("LWDA") satisfied the requirements of
24 PAGA. The LWDA has expressed no objection to the Settlement.

25 5. The notice of settlement served by Defendant on the U.S. and
26 applicable state attorneys general satisfies the requirements of the Class Action
27 Fairness Act. The Attorneys General have expressed no objections to the Settlement.
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1 6. The terms of the Settlement are fair, reasonable and adequate, and the
2 standards and applicable requirements for final approval of this class and collective
3 action settlement are satisfied, including the provisions of Rule 23 of the Federal
4 Rules of Civil Procedure and the provisions of 29 U.S.C. section 201, *et seq.*

5 7. The Settlement has been reached as a result of intensive, serious, and
6 non-collusive, arms-length negotiations and was achieved with the aid of an
7 experienced mediator. The Settlement was entered into in good faith as to each
8 California Settlement Class Member, Illinois Settlement Class Member, and FLSA
9 Settlement Collective Member.

10 8. Class Counsel are experienced class action litigators and have
11 expressed the view that the Settlement is fair, reasonable, and adequate.

12 9. Taking into consideration the nature of the Plaintiffs' claims; the
13 nature of Defendant's defenses; the expense, complexity and likely duration of
14 further litigation; and the risk of attaining and maintaining class action status
15 throughout the litigation, the amounts paid under the Settlement are fair and
16 reasonable. Moreover, the allocation of settlement proceeds among the California
17 Settlement Class Members, Illinois Settlement Class Members, and FLSA
18 Settlement Collective Members is fair, reasonable, and adequate. That the
19 settlement represents a compromise of the Parties' respective positions rather than
20 the result of a finding of liability at trial also supports the Court's decision granting
21 final approval.

22 10. The Court appoints Plaintiffs as representatives of, and Class Counsel
23 as counsel for, the California Settlement Class Members, the Illinois Settlement
24 Class Members, and the FLSA Settlement Collective Members for the purpose of
25 entering into and implementing the Settlement.

26 11. The Settlement Administrator is to execute the distribution of proceeds
27 pursuant to the terms of the Settlement, as modified by the concurrently filed Order
28

1 Granting in Part Plaintiffs' Unopposed Motion for Approval of Award of Attorneys'
2 Fees and Costs and Class Representative Enhancements.

3 12. As of the Effective Date, the Plaintiffs, California Settlement Class
4 Members, the Illinois Settlement Class Members, and the FLSA Settlement
5 Collective Members, and their legally authorized representatives, heirs, estates,
6 trustees, executors, administrators, principals, beneficiaries, representatives, agents,
7 assigns, and successors, and/or anyone claiming through them or acting or
8 purporting to act for them or on their behalf, regardless of whether they have
9 received actual notice of the proposed Settlement, have conclusively compromised,
10 settled, discharged, and provided: the Complete and General Release (in the case of
11 Plaintiffs); the release of California Settlement Class Members' Released Claims (in
12 the case of the California Settlement Class Members); the release of the Illinois
13 Settlement Class Members' Released Claims (in the case of Illinois Settlement Class
14 Members); and release of FLSA Settlement Collective Members' Released Claims
15 (in the case of FLSA Settlement Collective Members who cash their Individual
16 Settlement Payments) against Trunk Club and the Released Parties, and are bound
17 by the provisions of the Settlement Agreement.

18 13. Payment to the California Labor and Workforce Development Agency
19 of \$5,625.00 as its share of the settlement of claims arising under the California
20 Private Attorneys General Act in this case is fair, reasonable, and adequate. Payment
21 of that amount shall be paid from the Total Settlement Amount in accordance with
22 the Settlement Agreement, and there shall be no further recourse for the civil
23 penalties released under the terms of the Settlement.

24 14. Notwithstanding the submission of a timely request for exclusion,
25 California Class Members are still bound by the settlement and release of the PAGA
26 Claims or remedies under this judgment pursuant to *Arias v. Superior Court*, 46 Cal.
27 4th 969 (2009), as requests for exclusion do not apply to the PAGA Claims. The
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1 State of California's claims for civil penalties pursuant to PAGA are also
2 extinguished.

3 15. The fees, expenses, and any other costs of Rust Consulting, Inc. in
4 administering the Settlement, in the amount of \$25,000.00, are fair and reasonable.
5 Payment of that amount shall be paid out of the Total Settlement Amount in
6 accordance with the Settlement Agreement, which shall fully, finally and completely
7 compensate Rust Consulting for all fees, expenses and any other costs in
8 administering the Settlement.

9 16. For the reasons described in the concurrently filed Order Granting in
10 Part Plaintiffs' Unopposed Motion for Approval of Award of Attorneys' Fees and
11 Costs and Class Representative Enhancements, the Court approves the payment of
12 Service Awards in the amount of \$2,000 to each of the Plaintiffs (in addition to any
13 recovery they may receive as a member of one or more of the classes under the
14 Settlement;

15 17. For the reasons described in the concurrently filed Order Granting in
16 Part Plaintiffs' Unopposed Motion for Approval of Award of Attorneys' Fees and
17 Costs and Class Representative Enhancements, the Court approves the payment of
18 \$435,377 for attorneys' fees and \$8,493.74 in costs to Class Counsel. No other
19 attorneys or law firms shall be entitled to any award of attorneys' fees or costs from
20 Defendant in any way connected with this Action.

21 18. The Settlement Agreement and this Final Approval Order and
22 Judgment shall have *res judicata* and preclusive effect in all pending and future
23 lawsuits or other proceedings that encompass any of Plaintiffs' claims, the
24 California Settlement Class Members' Released Claims, the Illinois Settlement
25 Class Members' Released Claims, and the FLSA Settlement Collective Members'
26 Released Claims, whether those lawsuits or proceedings are maintained by or on
27 behalf of Plaintiffs, the California Settlement Class Members, the Illinois Settlement
28 Class Members, and/or the FLSA Settlement Collective Members. The Settlement

1 Agreement and this Final Approval Order and Judgment shall be binding on
2 Plaintiffs, California Settlement Class Members, Illinois Settlement Class Members
3 and FLSA Settlement Collective Members, their heirs, estates, trustees, executors,
4 administrators, principals, beneficiaries, representatives, agents, assigns, and
5 successors, and/or anyone claiming through them or acting or purporting to act for
6 them or on their behalf.

7 19. Plaintiffs, the California Settlement Class Members, the Illinois
8 Settlement Class Members, and the FLSA Settlement Collective Members are
9 permanently barred from filing, commencing, prosecuting, intervening in, or
10 participating (as class members or otherwise) in any other lawsuit or administrative,
11 regulatory, arbitration, or other proceeding in any jurisdiction based on the claims
12 released in the Settlement Agreement.


13 20. The Settlement and any proceedings undertaken pursuant thereto, may
14 not be offered, received, or construed as evidence of: a presumption, concession, or
15 an admission by any Party of liability or non-liability; the certifiability or non-
16 certifiability the class and collective claims resolved by the Settlement; the
17 manageability or non-manageability of the PAGA representative claims resolved by
18 the Settlement; provided, however, that reference may be made to this Settlement in
19 such proceedings as may be necessary to effectuate the provisions of this
20 Settlement.

21 21. This Final Approval Order and Judgment of dismissal shall be entered
22 forthwith, dismissing this Action with prejudice.

23 22. Without affecting the finality of the Final Approval Order and
24 Judgment, the Court retains continuing jurisdiction over Plaintiffs, Defendant, the
25 California Settlement Class Members, the Illinois Settlement Class Members, and
26 the FLSA Settlement Collective Members as to all matters concerning the
27 administration, consummation, and enforcement of this Settlement Agreement.
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23. After settlement administration and distribution of funds have been completed, the parties shall file a report with this Court certifying compliance with the terms of the Settlement and this Order and Judgment.

IT IS SO ORDERED.


Honorable Dale S. Fischer
UNITED STATES DISTRICT JUDGE